IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION NO : 3646 of 2003

Between:

State of A.P,

Rep by its Revenue Divisional Officer
Hyderabad.

..... APPLICANT

AND

1 The Special Court Under

A.P. Land Grabbing (Prohibition) Act 1982,
B.R.K.R.Bhavan, Tank Bund,
Hyderabad, and 59 others.

.....RESPONDENTS

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ORDER: **(Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)**

This is a Writ Petition challenging the order of the first respondent-Special Court Under A.P. Land Grabbing (Prohibition) Act 1982, at Hyderabad,

(for short “the Special Court”) in L.G.C.No.141 of 1989, dated 10-06-2002.

For the sake of convenience, the parties shall be referred to as they appeared in the Land Grabbing Case.

State Government filed the case being L.G.C.No.141 of 1989, against one Smt.Anjuman Ara Begum, contending that she was a land grabber, and the land under her possession was the land, which belongs to the applicant-State Government.

Smt. Anjuman Ara Begum is daughter of Mohd. Maqbool Ali Pasha, and respondents 2 to 21 are also the legal representatives of Mohd. Maqbool Ali Pasha. Respondents 22 to 59 came on record, as they contended before the Special Court that they are entitled to the land as they are in possession of the land, and are owners of the land. Respondents 1 to 21 claim that they are in possession of land in Plot No.129/75/D5, and respondents 22 to 59 claim that they are in possession of land covered by Survey No.129/6.

On the basis of the pleadings of the parties, the Special Court framed the following issues:

> ‘1. Whether the applicant is the owner of the application schedule property ?
>
> 2. If so, whether the respondent is not a land grabber ?
>
> 3. Whether the respondent perfected her title to the application schedule property by adverse possession ?
>
> 4. To what relief ?’

On issue No.1, Special Court came to the conclusion that applicant-State Government was not the owner of the property.

The grievance of the applicant-State Government is that the case was not decided by the Special Court on merits. It only relied on a Division Bench

judgment of this Court in Writ Petition No.1963 of 1983, which was later confirmed by Supreme Court in ***State of A.P. vs. Merit Enterprises***. According to this judgment, a Division Bench of this Court had held that the property, which was the subject matter of the present proceedings, did not belong to the applicant-State Government. The learned Special Court, according to the learned Government Pleader for Revenue, committed a mistake by holding that it was a case of *res judicata*, as respondents 22 to 59 were not parties to that judgment. It may be true that the judgment in *M/s.Merit Enterprises vs State of A.P*. i.e., Ex.B.102 may not operate as
res judicata, but at the same time, we agree with the learned Counsel for the respondents that it was a piece of evidence in terms of Section 13 of the Evidence Act (1 of 1872). Once the Court had decided, and the decision had been upheld even by the Supreme Court that applicant-State Government was not the owner of the property in question, that judgment could be used as evidence. In this connection, we rely on a judgment of the Supreme Court reported in "***Tirumala Tirupati Devasthanams v. K. M. Krishnaiah***". The Court below, therefore, was right in coming to the conclusion that the applicant-State Government was not the owner of the property in question, therefore, there was no question of land grabbing.

For these reasons, we do not think there is any scope for us to interfere in the judgment passed by the Special Court.

There are disputes between the respondents. There are three groups i.e., respondents 1 to 21, respondents 22 and 23, and respondents 24 to 59. All the three groups claim ownership, title and possession over the land in question. It is true that the applicant-State Government filed case under Land Grabbing Act only against the first respondent claiming that she was in possession of the land. But it is also true that other respondents immediately came forward and impleaded themselves as parties claiming their possession and ownership over the said land. There is no finding by the Special Court as to who was in possession of the land. Therefore, we will not be in a position to decide the issue with regard to the possession and ownership over the said land, as this Court in its writ jurisdiction would not be able to appreciate the evidence

although parties have led evidence with regard to the factual position. Therefore, while dismissing this writ petition, we make it clear that this Court has not gone into the question of ownership or possession of respondents 1 to 59. If they have any disputes *inter se*, they can settle them in appropriate proceedings. Any observations made by this Court or by the Special Court shall not be taken as an expression of opinion for the purpose of settlement of disputes between respondents 1 to 59.

Writ Petition is, accordingly, dismissed. No costs.

(Bilal Nazki, A.C.J)

15th September, 2005

(R.Subhash Reddy, J)

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